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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,119	04/14/2004	Thomas R. Tudor	65833-0012	3118

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EXAMINER

LAMB, BRENDA A

ART UNIT	PAPER NUMBER
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1734

DATE MAILED: 10/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/709,119

Applicant(s)

TUDOR ET AL.

Examiner

Brenda A. Lamb

Art Unit

1734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 42-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 42-51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/28/2006 has been entered.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 42-51 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The originally filed specification fails to teach or suggest the bottom end of the wall which separates the at least two dispersing chamber is narrow or narrower than the distance between the outlet orifices.

The recitation that the bottom end of the wall is narrow than a distance between the outlet orifices presents new matter since "the bottom end of the wall" reads on that portion of the wall which begins immediately after the width starts to narrow and the width of the wall immediately after the width of the wall starts to narrow has a width which is wider than the distance between the outlet orifices.

The originally filed specification fails to teach or suggest the cross-sectional area of the at least one dispersing chamber proximate the inlet port is smaller than the cross-sectional area of the at least one dispersing chamber proximate the outlet orifices.

If applicant disagrees, then he/she needs to support in the specification and/or drawings.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 47 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 47 is confusing due to a grammatical error. It is suggested that applicant at line 2 of claim 47 delete "narrow" and insert – narrower --.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 42, 44 and 50 are rejected under 35 U.S.C. 102(b) as being anticipated by Choi 5,891,482.

Choi teaches a multiple orifice applicator system as shown in Figure 4 comprising: applicator body having an inlet port which includes inlet 12; a detachable applicator plate 19 coupled to the applicator body, the applicator plate having a plurality of outlet orifices configured to dispense fluid material onto the work piece; and at least one dispersing chamber which includes elements 11 and 11' provides a fluid flow path between the inlet port and at least two or more of the plurality of outlet orifices 32, wherein the cross-sectional area of the at least one dispersing chamber approximate the inlet port is smaller than smaller than the cross-sectional area of the at least one dispersing chamber approximate the outlet orifices as clearly shown in Figure 4, wherein the at least one dispersing chamber is partially disposed within the applicator plate and partially disposed in the applicator body. Choi multiple orifice applicator is capable of the end use of applying the fluid material to the workpiece since it teaches every claimed element of the apparatus. Note it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does

not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ 2d 1647 (1987). "[A]pparatus claims cover what a device is, not what a device does." Hewlett-Packard Co. v. Bausch & Lomb Inc., 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528 (Fed. Cir. 1990). Thus Choi teaches every positively claimed element of the apparatus as set forth in claim 42. With respect to claim 44, Choi et al shows his applicator includes a plurality of dispersing chambers. With respect to claim 50, Choi et al shows his dispersing chamber includes at least one terraced shoulder.

Claims 42-43 and 50 are rejected under 35 U.S.C. 102(b) as being anticipated by Martin 3,259,938.

Martin teaches a multiple orifice applicator as shown in Figure 2 comprising: applicator body having an inlet port 12; a detachable applicator plate 42 coupled to the applicator body, the applicator plate having a plurality of outlet orifices configured to dispense fluid material onto the work piece; and at least one dispersing chamber which includes element 16 provides a fluid flow path between the inlet port and at least two or more of the plurality of outlet orifices 44, wherein the cross-sectional area of the at least one dispersing chamber approximate the inlet port is smaller than smaller than the cross-sectional area of the at least one dispersing chamber approximate the outlet orifices as clearly shown in Figure 4, wherein the at least one dispersing chamber is partially disposed within the applicator plate and partially disposed in the applicator body. Martin multiple orifice applicator is capable of the end use of applying the fluid material to the workpiece since it teaches every claimed element of the apparatus. Note

it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ 2d 1647 (1987). "[A]pparatus claims cover what a device is, not what a device does." Hewlett-Packard Co. v. Bausch & Lomb Inc., 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528 (Fed. Cir. 1990). Thus Martin teaches every positively claimed element of the apparatus as set forth in claim 42. With respect to claim 43, Martin shows his applicator includes a groove around plurality of dispersing chambers and a sealing member 24 at least partially disposed in the groove and contacting the applicator plate. With respect to claim 50, Martin shows his dispersing chamber includes at least one terraced shoulder.

Claim 52 is rejected under 35 U.S.C. 103(a) as being unpatentable over Choi 5,891,482 in view of Uehara et al.

Choi is applied for the reasons noted above. Choi fails to teach his system includes a mechanism for controlling the relative positioning of the applicator to the work piece. However, Uehara et al teaches the design of an applicator for applying fluid to a workpiece which includes a mechanism to move the applicator relative to the work piece. Therefore, it would have been obvious to modify the Choi apparatus by providing a mechanism to move the applicator relative to the work piece using a mechanical slide since Uehara et al shows mounting its applicator in such a manner for the obvious advantage of greater control of the coating process.

Claims 43,45 and 48-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Choi 5,891,482 in view of Martin 3,259,938.

Choi is applied for the reasons noted above. Choi fails to teach the applicator body includes a groove that is disposed around the dispersing chamber and a seal member at least partially disposed in the groove and contacting the applicator plate or includes a groove that is disposed between or around and between the at least two dispersing chambers and a seal member at least partially disposed in the groove and contacting the applicator plate. However, as discussed above, Martin shows his applicator includes a groove around plurality of dispersing chambers and a sealing member 24 at least partially disposed in the groove and contacting the applicator plate. Therefore, it would have been obvious to modify the Choi apparatus such that the applicator body includes a groove that is disposed around the dispersing chamber and a seal member constructed from a known material (elastomeric material) at least partially disposed in the groove and contacting the applicator plate or applicator boy includes a groove that is disposed between or around and between the at least two dispersing chambers and a seal member constructed from a known material (elastomeric material) at least partially disposed in the groove and contacting the applicator plate since Martin shows arranging a groove with sealing member therein around a dispersing chamber and with the sealing member in contact with the applicator plate for the obvious reason to prevent leakage of fluid therebetween and further obvious in the modified Choi system to construct the sealing member from a conventional sealing material, an

elastomer, for the known advantages of such a material – increase life of the sealing member due to its flexibility.

Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over Choi 5,891,482 in view of Martin 3,259,938 and, if necessary, Ziecker et al.

Choi and Martin are applied for the reasons noted above. Choi and Martin fails to teach a seal which is an elastomeric seal that is disposed about the dispersing chamber. However, Ziecker et al teaches arranging elastomeric seals about openings and between mated surfaces of an applicator in order to prevent leakage of fluid there between. Ziecker et al teaches arranging elastomeric seals in grooves within the mated surfaces. Therefore, it would have been obvious in the modified Choi system to construct the sealing member from a conventional sealing material, an elastomer, and ,if necessary, is taught Ziecker et al for the known advantages of such a material – increase life of the sealing member due to its flexibility.

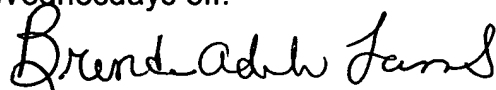
Applicant's arguments filed 7/28/2006 have been fully considered but they are not persuasive.

Applicant's argument that Choi fails to teach the cross-sectional area of the at least one dispersing chamber proximate the inlet port is smaller than the cross-sectional area of the at least one dispersing chamber proximate the outlet is found to be non-persuasive. Choi clearly teaches as shown by the combination of Figure 4 and Figure 2 that the cross-sectional area of least one dispersing chamber proximate the inlet port is smaller than the cross-sectional area of the at least one dispersing chamber proximate the outlet orifices.

Art Unit: 1734

Applicant's argument that Choi fails to teach the dispersing chamber is disposed partially in the applicator body and applicator plate is found to be non-persuasive since Choi teaches as shown in the combination of Figure 2 and Figure 4 that the dispersing chamber (elements 11 and 11") is defined therein by the nose section 19 which is attached to die body 7.

Any inquiry concerning this communication should be directed to Brenda A. Lamb at telephone number (571) 272-1231. The examiner can normally be reached on Monday and Wednesday thru Friday with alternate Wednesdays off.

A handwritten signature in black ink, appearing to read "Brenda A. Lamb".

Brenda A Lamb
Examiner
Art Unit 1734